



Q. J. Haworth  
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3-19-02

Patent  
Docket No.: 54905US002

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: James H. Wicks,  
Carl A. Adams and Gary E. Krejcarek

Serial No.: 09/434,586 ✓  
Filed: November 5, 1999  
For: DEVICES AND METHODS FOR  
MICROORGANISM DETECTION

Group Art Unit: 1744  
Examiner: D. Redding

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**RESPONSE TO SPECIES ELECTION REQUIREMENT**

Commissioner for Patents  
Washington, DC 20231

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on February 4, 2002.

Signed: \_\_\_\_\_  
John A. Burtis (Reg. No. 39,924)

Dear Sir:

The following is submitted in response to an Office Action mailed January 14, 2002. Since this response is being submitted within the shortened statutory period for response set by the Examiner, no additional fees are due for submission of the accompanying amendments. If, however, Applicants are mistaken and fees for the proposed amendments are required, please charge any such fees to Deposit Account 13-3723.

The Office Action requires election among the following allegedly patentably distinct species of the claimed invention under 35 U.S.C. § 121:

- I. Assay device with at least two chambers;
- II. Assay device with at least three chambers;
- III. Assay method with device having at least two chambers; and
- IV. Assay method with device having at least three chambers.


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Applicant elect for examination, with traverse, the species identified by the Examiner in Group I, assay devices with at least two chambers. Applicants traverse because claims 1 and 23 are generic to all identified species, as they include methods and devices having two or more claimed chambers. It is respectfully asserted that examination of all restricted species does not pose an undue burden.

Claims 1-6, 10, 11-13, and 18-20 read on the elected species. Consideration of all pending claims is respectfully requested once the generic claims are found to be allowable. Should the Examiner determine that a telephone interview would be beneficial in resolving any of the issues in this case, the Examiner is invited to telephone the undersigned attorney at 651-736-4235.

Respectfully submitted,

Date: February 7, 2002

By:   
John A. Burtis  
Registration No. 39,924  
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